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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 09/493,188      | 01/28/2000  | Hidehiro Ishii       | P7156-9071          | 1906             |

7590 09/05/2002

ARENT,FOX, KINTNER, PLOTKIN & KAHN PLLC  
1050 CONNECTICUT AVE. NW  
SUITE 600  
WASHINGTON, DC 20036-5339

EXAMINER

PATEL, GAUTAM

|          |              |
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| ART UNIT | PAPER NUMBER |
|----------|--------------|

2653

DATE MAILED: 09/05/2002

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Please find below and/or attached an Office communication concerning this application or proceeding.

### NON-RESPONSIVE AMENDMENTS

The reply filed on 8-06-02 is not fully responsive to the prior Office Action because of the following omission(s) or matter(s): The Applicants have cancelled all claims drawn to the originally filed invention & added claims drawn to a patentably distinct invention as noted below. See 37 CFR 1.111. Since the above-mentioned reply appears to be *bona fide*, applicant is given **ONE (1) MONTH or THIRTY (30) DAYS** from the mailing date of this notice, whichever is longer, within which to supply the omission or correction in order to avoid abandonment. EXTENSIONS OF THIS TIME PERIOD MAY BE GRANTED UNDER 37 CFR 1.136(a).

### ELECTION BY ORIGINAL PRESENTATION

Newly submitted claims 7-46 are directed to an invention that is independent or distinct from the invention originally claimed for the following reasons:

I. Original claims 1-6 were drawn to invention about control information which includes first information representing **the number of sets of information composing the multiplexed audio information and recording second information instructing to record multiplexed audio information as a stream** Note fig. 7c. This subject matter is classified in class 369/47.16.

II. New claims 7-46 are drawn to different invention. In these claims, control information includes application information **indicating whether or not the audio stream contains audio data with different recording modes; Note fig. 7a**. This subject matter is classified under 369/53.37.

Since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, claims 7-46 are withdrawn from consideration

as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

Inventions I and II are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct from each other if they are shown to be separately usable. In the instant case, invention I has separate utility such as control of the storage or retrieval operation by a control signal to be recorded or reproduced of plural interrelated channels. See MPEP § 806.05(d).

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.

#### ***Contact information***

1. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gautam R. Patel whose telephone number is (703) 308-7940. The examiner can normally be reached on Monday through Thursday from 7:30 to 6.

The appropriate fax number for the organization (Group 2650) where this application or proceeding is assigned is (703) 872-9314.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. William Korzuch, can be reached on (703) 305-6137.

Any inquiry of a general nature or relating to the status of this application should be directed to the group receptionist whose telephone number is (703) 305-4700 or the group Customer Service section whose telephone number is (703) 306-0377.

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Art Unit: 2653

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Paper Number: 7

*GRP*

Gautam R. Patel  
Patent Examiner  
Group Art Unit 2653

August 30, 2002

*W. R. Young*  
W. R. YOUNG  
PRIMARY EXAMINER